IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
Second Appeal No.628/2006

Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	**Court's or Judge's Orders.**

CORAM : **A..P. Lavande, J**
DATE : 20.3.2007

Heard Shri Wankhede, learned counsel for the appellant.

2. This appeal is directed against the Judgment and decree dated 21st July, 2005 passed by 4th Ad hoc Additional District Judge, Washim dismissing the appeal filed by the appellant against the Judgment and decree passed by Joint Civil Judge, Sr. Dn., Washim in Regular Civil Suit No. 199/97. The appellant who is the original plaintiff filed the suit for permanent injunction against the defendants in respect of the suit plot consisting of an area 22 x36 feet of Gat no. 59 of village Mope. The plaintiff claimed possession of the suit plot for 22 years and also claimed that he was given possession of the suit plot at the time of construction of Mope-Mahaja road since the plaintiff had gifted his land from gat no. 120 for the said road. The trial court decided the suit against the plaintiff holding that he had not proved his possession over the suit plot for the last over 20 years. The appeal preferred by the plaintiff was also dismissed by the lower appellate court concurring with the findings

given by the trial court.

3. Mr. Wankhede, learned counsel appearing for the appellant submitted that both the courts below have erred in rejecting the claim of the plaintiff. According to Mr. Wankhede, the plaintiff had proved his possession of the suit plot for the last over 20 years and, therefore, the learned trial court as well as the appellate court have erred in dismissing the suit. He further submitted that the plaintiff/ appellant had submitted an application for regularisation of the suit plot to the Tahsildar and the same is pending. He, therefore, urged that the decrees passed by both the courts below deserve to be quashed and set aside.

4. Having perused the records and having considered the submissions made by Mr. Wankhede, I do not find any merit in this appeal. The finding recorded by the trial court and confirmed by the lower appellate court that the plaintiff has not proved his possession in respect of the suit plot is based upon proper appreciation of the evidence led by the plaintiff and, therefore, the same cannot be termed as perverse. The plaintiff has not produced any document evidence to prove that the suit plot was given to him in exchange of the land allegedly gifted by him for road. Therefore, the findings recorded by both the courts below cannot be termed as perverse warranting interference in the second appeal. I do not find any

substantial question of law involved in the present appeal. Hence, the appeal is summarily rejected. In case the appellant has filed an application for regularisation of the plot to the Tahsildar, needless to mention that the same shall be decided on its own merits.

Judge

patle